1 2 3 4 5 6 7 8	QUINN EMANUEL URQUHART & SULLIVA Charles K. Verhoeven (Bar No. 170151) charlesverhoeven@quinnemanuel.com David A. Perlson (Bar No. 209502) davidperlson@quinnemanuel.com Melissa J. Baily (Bar No. 237649) melissabaily@quinnemanuel.com John Neukom (Bar No. 275887) johnneukom@quinnemanuel.com Jordan Jaffe (Bar No. 254886) jordanjaffe@quinnemanuel.com 50 California Street, 22 nd Floor San Francisco, California 94111-4788 Telephone: (415) 875-6600 Facsimile: (415) 875-6700	N, LLP				
9	Attorneys for Waymo LLC					
10	UNITED STATES DISTRICT COURT					
11	NORTHERN DISTRICT OF CALIFORNIA					
12	SAN FRANCISCO DIVISION					
13	WAYMO LLC,	CASE NO. 3:17-cv-00939-WHA				
14	Plaintiff,	PLAINTIFF WAYMO'S RENEWED				
15	VS.	MOTION TO COMPEL UBER SOURCE CODE				
16 17	UBER TECHNOLOGIES, INC.; OTTOMOTTO LLC; OTTO TRUCKING LLC,					
18	Defendants.					
19						
20						
21						
22						
23						
24						
25						
26						
27						
28						
		CASE No. 3:17-cv-00939-WHA				

WAYMO'S RENEWED MOTION TO COMPEL SOURCE CODE

1		TABLE OF CO	NTENTS		D	
2					<u>Page</u>	
3	I.	INTRODUCTION			1	
4	II.	WAYMO HAS A DEMONSTRATED NEED SOURCE CODE	FOR THE MOTI	ON PLANNER	1	
5		SOURCE CODE	•••••••		1	
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						
19						
20						
21						
22						
23						
24						
25						
26						
27						
28						
		i CASE No. 3:17-cv-00939-WHA WAYMO'S RENEWED MOTION TO COMPEL SOURCE CODE				
- 1		***				

I. <u>INTRODUCTION</u>

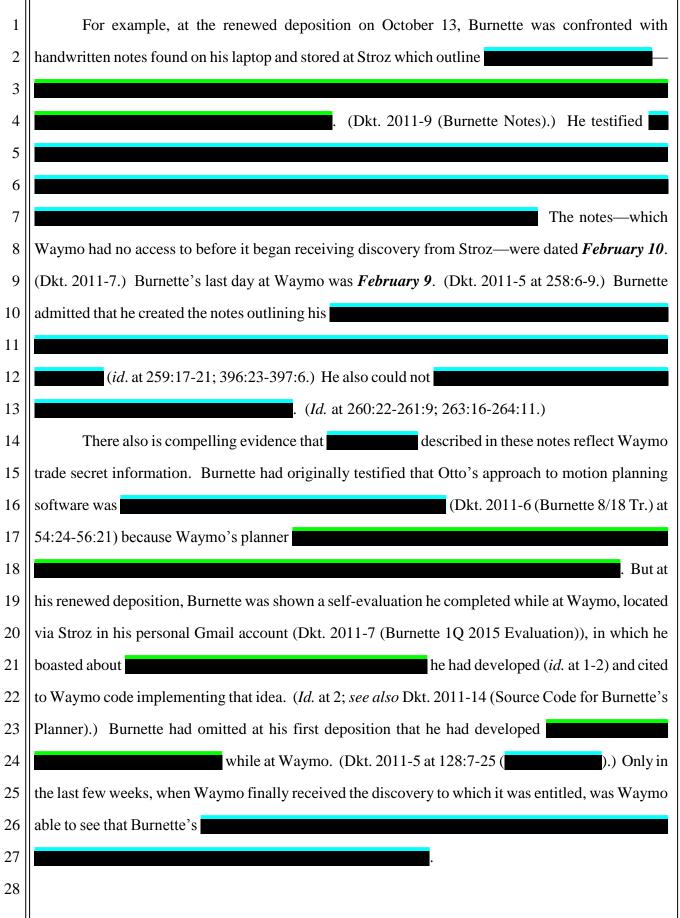
As this Court is aware, on October 9, Waymo filed a motion to compel source code from Uber. (Dkt. 1977.) This Court denied the motion, deeming the request overbroad and holding that Waymo had not laid a concrete foundation for why it should be entitled to source code discovery. (Dkt. 2006.) Waymo appealed to Judge Alsup, while narrowing its request to only the source code for Uber's motion planning software. Judge Alsup denied this request, but in doing so, invited Waymo to raise this narrowed request as a new motion before this Court. (Dkt. 2026 at 2:13-21.)

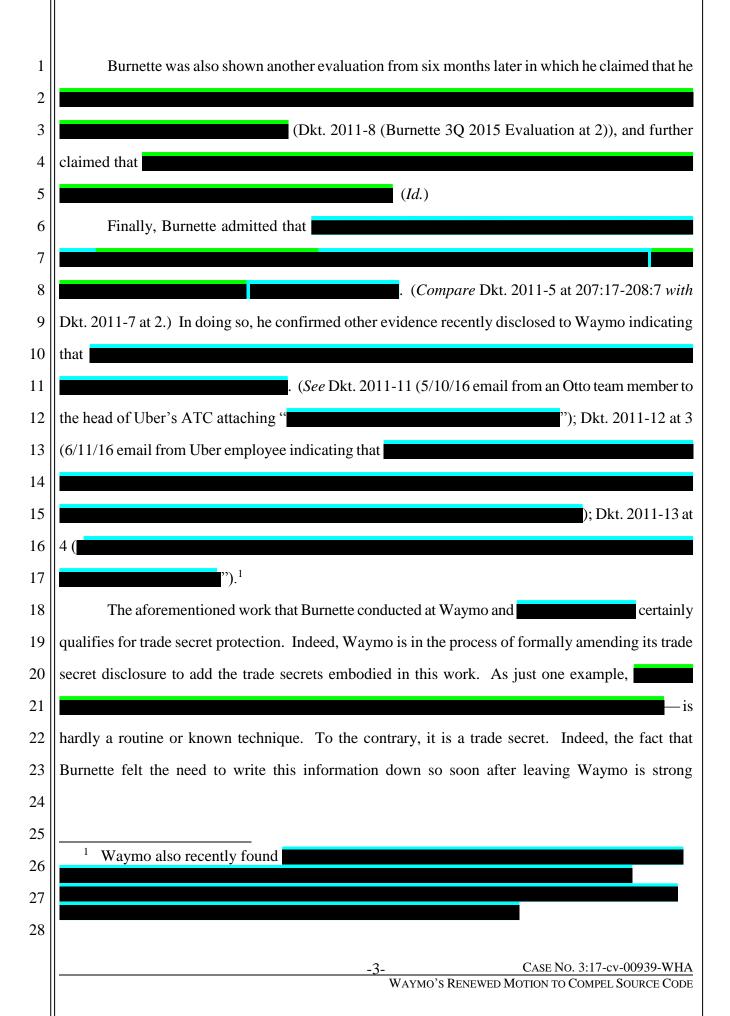
Through this motion, Waymo hereby submits the narrowed request to this Court. Waymo also moves in advance of the Court's deadline to seek any additional discovery on Oct. 20. (Dkt. 1964.) As discussed below, there is a strong basis to believe that Uber's motion planning software embodies Waymo's trade secrets. Waymo is entitled to production of the motion planning source code in order to fully assess this question.

Waymo does not mean to try the Court's patience through this motion after its prior motion. At the time, Waymo sought to address any possible source code disputes for judicial resolution, given the imminent close of discovery. After the Burnette deposition on October 13 (discussed *infra*), it became clear Waymo's most crucial need was for the motion planning source code alluded to in that deposition. In an effort to get judicial resolution as soon as possible, Waymo elected to narrow its request in its Reply rather than bring a new narrowed motion. In accordance with Judge Alsup's directive, however, and with the greatest respect for this Court's busy docket, Waymo respectfully brings this narrowed motion seeking production of Uber's motion planning source code.

II. WAYMO HAS A DEMONSTRATED NEED FOR THE MOTION PLANNER SOURCE CODE

As the Court is aware, on October 13, Waymo took the continued deposition of Don Burnette, a former Waymo employee and current technical lead for software autonomy at Uber. (Dkt. 2011-5 (Burnette 10/13 Tr.) at 184:23-185:2.) At this deposition, Waymo was able to question Burnette about newly-produced discovery from Stroz, which shed important light on the timing of Burnette's work at Otto and created a strong inference that this work entailed misappropriation of Waymo trade secrets.

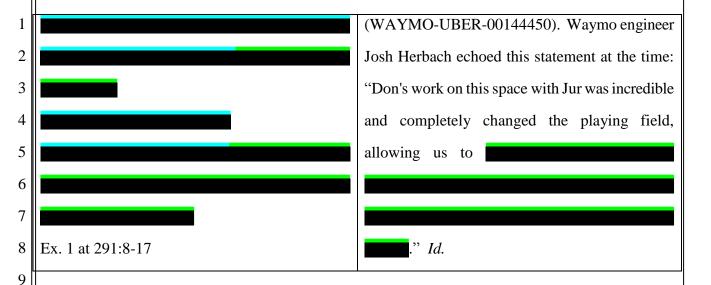


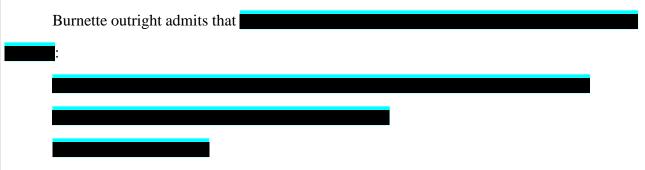


1

circumstantial evidence of its value (as well as strong circumstantial evidence that Burnette planned to 2 use this information at his new employer, Otto).

3	Burnette Deposition Testimony - Oct. 2017:	Contemporaneous Documentation
4		Describing Significance of These Innovations
5		Waymo's "This was
6		one of the areas where Don completely led a
7		fundamental improvement to
8		
9		."
10		Ex. 2 (WAYMO-UBER-00144446).
11	Ex. 1 at 231:25 – 232:5.	
12		Waymo's "project:
13		"The huge importance of this new system is that
14		
15		
16		
17		
18		
19		" Ex. 3 (WAYMO-UBER-00144450).
20		"[T]his new system would solve some of our
21		toughest critical bugs" Ex. 3 (WAYMO -
22		UBER- 00144449)
23		
24	Ex. 1 at 234:9-19	
25		Waymo's
26		innovation: "[A] critical advancement in the
27		" Ex.3
28		





Ex. 1 at 261:7-12 (objections omitted).

Even Uber itself contends that the handwritten notes contain highly confidential information, putting in a sworn declaration that they "contain highly confidential information technical information [sic] considered by an Ottomotto software engineer. Disclosure of this information could allow competitors to obtain a competitive advantage over Defendants by understanding this technical information." Dkt. 2024. In other words, Uber itself agrees that these handwritten notes constitute trade secrets. The only dispute left is whose trade secrets the notes describe. As shown above, these trade secrets were created at Waymo and are Waymo's property, not Uber's.

While Waymo has received an older version of Uber's code, it has never received a current Uber's motion planner source code. The evidence recounted above provides more than sufficient basis to compel production of Uber's most recent motion planner source code, so that Waymo can more definitively determine and prove whether Uber's motion planner software embodies Waymo's trade secrets.

Case 3:17-cv-00939-WHA Document 2037-3 Filed 10/20/17 Page 8 of 8

1	"The scope of discovery under the Federal Rules is extremely broad discovery should	d be			
2	allowed unless the information sought has no conceivable bearing on the case." <i>United State</i>	s v.			
3	Cathcart, No. C 07-4762 PJH, 2009 WL 1764642, at *2 (N.D. Cal. June 18, 2009). Given	the			
4	aforementioned facts, Waymo has shown entitlement to the most recent version of Uber's motion				
5	planner source code. Waymo respectfully requests that this narrow and targeted request be granted.				
6					
7					
8	LLP				
9	By /s/ Charles K Verhoeven				
10	Charles K. Verhoeven				
11	Attorneys for WAYMO LLC				
12					
13					
14					
15					
16					
17					
18					
19					
20					
21					
22					
23					
24					
25					
26					
27					
28					
- 1	II				